

REMARKS

Claims 1-41 are all the claims pending in the application. Claims 1, 2, 4, 6-31, and 33-41 have been elected without traverse. Claims 14, 25-29, 35, and 37-41 have been withdrawn from further consideration by the Examiner as non-elected claims. Claims 30 and 31 stand objected to due to informalities. Claims 1-13, 15-24, 30, 31-34, and 36 are allowed.

Objections

The Examiner has objected to claim 30 and 31 due to informalities. The informalities noted by the Examiner have been corrected. Thus, withdrawal of the objection is respectfully requested.

Allowable Subject Matter

Claims 1-13, 15-24, 30, 31-34, and 36 are allowed. Applicant would like to thank the Examiner for indicating that the foregoing claims have been allowed.

Restriction by the Examiner

As to the withdrawal of non-elected claim 14, 25-29, 35, and 37-41, the Applicant respectfully traverses the withdrawal. Applicant was not given proper opportunity to elect the claims in the original election of species requirement requested in the Office Action dated November 26, 2004. It was believed that the restriction made for FIG. 7 did not further require a sub-election and none has been required in this case, despite adequate opportunity to do so. The Examiner may not cause this form of undue prejudice against Applicant by withdrawing cases without opportunity to respond.

Further, Applicant submits that in view of the allowability of claim 1, which is generic, it is unduly prejudicial to Applicant to withdraw plainly allowable subject matter from allowance.

Additionally, claims 14, 25-29 and 35 are dependent upon allowed independent claims 1 and 31 respectively, and were never examined as required. MPEP §821.04 (a) states “[w]here restriction was required between independent or distinct products, and all claims directed to an elected invention are allowable, any restriction requirement between the elected invention and any nonelected invention that depends from or otherwise requires all the limitations of an allowable claim should be withdrawn...*Claims that require all the limitations of an allowable claim will be rejoined and fully examined for patentability in accordance with 37 C.F.R. § 1.104.*”(italics added) As such, Applicant requests that claims 14, 25-29 and 35 be examined on the merits.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No. 09/809,265

Attorney Docket No. Q62089


Respectfully submitted,

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Date: December 12, 2005